

REMARKS

This Amendment is submitted in reply to the Final Office Action mailed on June 10, 2009 and the Letter Regarding Restarting of the Time Period for reply dated June 22, 2009. No fees are due herewith this amendment. The Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 0112701-00658 on the account statement.

Claims 1-34 are pending in the application. Claims 32-34 were previously withdrawn and Claims 2 and 17 were previously canceled without prejudice or disclaimer. In the Office Action, Claims 1, 3-16 and 18-31 are rejected under 35 U.S.C. §103(a). In response, Applicants have amended Claim 1 and have canceled Claims 7-9. The amendments do not add new matter and are supported in Applicants' specification, for example, at page 4, lines 16-26. In view of the amendments and for at least the reasons provided below, Applicants respectfully request that the rejections to the claims be reconsidered and withdrawn.

In the Office Action, Claims 1, 3-16 and 18-31 are rejected under 35 U.S.C. §103(a) as being unpatentable over WO 02/30213 to Jones ("*Jones*") in view of the combination of U.S. Patent No. 6,214,376 to Gennadios ("*Gennadios*") and Lennox (Gelatin Alternatives in Gummi Confections) ("*Lennox*"). Applicants have amended independent Claim 1 to recite food products comprising a gelled water-based shell and a liquid center wherein the water-based shell comprises a mixture of kappa carrageenan and iota carrageenan in an amount sufficient to provide a gel texture, the shell comprises in addition to kappa and iota carrageenan, water and a sugar substitute in an amount of 45 to 88% by weight of the shell. The amendment is supported in the specification, for example, at page 4, lines 16-26. Applicants respectfully submit that the cited references, alone or in combination, are deficient with respect to the amended present claims.

Jones, *Gennadios* and *Lennox* fail to disclose or suggest food products comprising a gelled water-based shell and a liquid center wherein the water-based shell comprises a mixture of kappa carrageenan and iota carrageenan in an amount sufficient to provide a gel texture, the shell comprises in addition to kappa and iota carrageenan, water and a sugar substitute in an amount of 45 to 88% by weight of the shell as required, in part, by amended independent Claim 1. In

contrast, *Jones* discloses a food product comprising a gelatin-free water-based hydrocolloid casing that can withstand changes in temperature enclosing a solid, liquid, soft or particulate centre and a process for the production of a food product a gelatin-free water-based hydrocolloid casing enclosing a hard, liquid, soft or powder center which comprises a partially setting a liquid hydrocolloid mass and injecting with a hard, liquid, soft or particulate center and finally completing the setting of the hydrocolloid mass. See, *Jones*, Abstract. *Gennadios* is entirely directed to the manufacture of gelatin-free soft capsules employing kappa carageenan as the main gel-forming polymer. See, *Gennadios*, Abstract. *Lennox* is entirely directed to the use of an alternate hydrocolloid to provide a consumer with a gummi product free of any potential safety issues. See, *Lennox*, page 1, col. 2. However, *Jones*, *Gennadios* and *Lennox* all fail to disclose or suggest food products comprising a gelled water-based shell, the shell comprises in addition to kappa and iota carageenan, water and a sugar substitute in an amount of 45 to 88% by weight of the shell as required, in part, by amended independent Claim 1.

Accordingly, because the cited references, alone or in combination, fail to disclose or suggest every element of the present claims, Applicants respectfully request that the obviousness rejection of Claims 1, 3-16 and 18-31 be reconsidered and withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same. In the event there remains any impediment to allowance of the claims which could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Respectfully submitted,

K&L GATES LLP



Robert M. Barrett
Reg. No. 30,142
Customer No.: 29157
Phone No. 312-807-4204

Dated: August 18, 2009